

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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NICHOLAS BERNHARD, RALPH NATALE,  
KIRK CONAWAY, and ROY KOHN as  
TRUSTEES OF HEALTH FUND 917 AND THE  
LOCAL 917 PENSION FUND,

ECF Filing

**CERTIFICATION OF  
JOANN EMMONS  
10-CV-596 (ADS)(ETB)**

Plaintiffs,

- against -


CENTRAL PARKING SYSTEM OF NEW YORK, INC.  
and JOHN DOE,

Defendants.

-----X  
**JOANN EMMONS**, declares under penalty of perjury pursuant to 28 U.S.C. §1746 that  
the following is true and correct:

1. That she is employed by the plaintiff Trustees of the Local 917 Pension Fund and Health Fund 917 (the "Funds") as Fund Manager to administer the Funds on a day to day basis, and that the Funds are administered and overseen by the Trustees, who constitute the Board of Trustees of the Funds, pursuant to the respective agreements and declaration of trust for each Fund.
2. That she has read the complaint filed in this case and knows of her own personal knowledge all facts alleged therein and if called and sworn as a witness is competent to testify thereto.
3. That as Fund Manager, she is charged with keeping and maintaining the records of the Funds related to the calculation of and collection of contributions, that she requested, on behalf of the Trustees, that the Funds' auditor perform the payroll audits/ inspections of Central Parking Systems of New York, Inc. ("Central") at issue in this case (the "Audit"), that she communicated with the auditor on matters related to the audit/inspection and the delinquent contributions identified by audit/inspection (the "Findings") on behalf of the Funds.
4. That the Funds' auditor determined, during the audit noted in "3" above, that Central has not paid certain contributions due to the Funds for the year 2004.
5. That contributions to the Funds were required under the terms of collective bargaining agreements entered into by Local 917 and Central for all members of the bargaining unit, as set forth in the "recognition clauses" in the agreements.

6. That Sonya Mitchell, Central's payroll manager, has contested some of the Findings on behalf of Central, and has spoken with both the Fund Office and the Funds' auditors about the Findings that she contests.
7. That Ms. Mitchell has provided to the Funds' auditors spreadsheets setting out which Findings she contests.
8. That Ms. Mitchell never informed anyone at the Fund or the Funds' auditors that she was the person empowered by Central to make a final and binding determination as to which Findings would be paid.
9. That the Fund Office and/or Funds' auditors often speak with payroll managers or employees of similar status regarding payroll audit Findings.
10. That, in her experience, many of the payroll manager with whom Findings are discussed do not have the final authority to determine which Findings will be paid.

  
11/29/11  
Joann Emmons